

## Nays—12.

|           |             |
|-----------|-------------|
| Beck.     | Nelson.     |
| Burns.    | Poage.      |
| Cotton.   | Sulak.      |
| DeBerry.  | Van Zandt.  |
| Hill.     | Westerfeld. |
| Holbrook. | Woodruff.   |

## Absent—Excused.

|           |       |
|-----------|-------|
| Blackert. | Pace. |
| Martin.   |       |

## Motion to Lay on Table.

Senator Stone moved that the Hill amendment be laid on table subject to call.

Senator Hill received unanimous consent to withdraw his amendment.

## Motions to Recess.

Senator Sanderford at 10:10 o'clock p. m. moved that the Senate recess until 10 o'clock a. m. Tuesday.

Senator DeBerry offered as a substitute the motion to recess until 9:30 o'clock a. m. Tuesday.

Motion to recess until 10 o'clock a. m. prevailed by a viva voce vote.

## APPENDIX.

## Committee Report.

Committee Room,  
Austin, Texas, Oct. 19, 1936.  
Hon. Walter F. Woodul, President of Senate.

Sir: We, your Committee on Finance, to whom was referred

H. B. No. 37, A bill to be entitled "An Act authorizing the Old Age Assistance Commission to pay interest on warrants issued against the Texas Old Age Assistance Fund; making an appropriation therefor; restricting the total amount to be paid on account of any warrant issued for a given month; prescribing the powers and duties of certain State officials in reference thereto; prescribing the maximum rate of interest to be paid reappropriating for the purposes of this Act unexpended appropriations made for the biennium ending August 31, 1937; providing that the authority conferred in this Act shall not be limited by the provisions of Section 6 of Chapter 472, Acts of the Second Called Session of the Forty-fourth Legislature; making this Act cumulative of

other laws but providing that it shall take precedence over any law in conflict herewith, and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass, and be printed.

REDDITT, Chairman.

## THIRTEENTH DAY.

(Continued.)

Senate Chamber,  
Austin, Texas,  
October 20, 1936.

The Senate met at 10 o'clock a. m., pursuant to recess, and was called to order by Lieutenant Governor Walter F. Woodul.

## House Bill No. 8.

Pending business was H. B. No. 8.

## Amendment No. 36.

By Senator Moore:

Amend by adding to Section 6: "This section shall not apply to notes, mortgages or obligations taken by the United States Government or any of its agencies while owned and held by the Government of the United States or any of such agencies."

Read and adopted.

## Amendment No. 37.

By Senators Moore and Weinert:

Amend H. B. No. 8, Section 16, Subdivision (a), by striking out "One Dollar and Twenty Cents (\$1.20)," and inserting in lieu thereof "eighty cents."

The amendment failed of adoption by the following vote:

## Yeas—12.

|             |            |
|-------------|------------|
| Blackert.   | Shivers.   |
| Isbell.     | Small.     |
| Moore.      | Stone.     |
| Rawlings.   | Sulak.     |
| Regan.      | Van Zandt. |
| Sanderford. | Weinert.   |

## Nays—15.

|         |          |
|---------|----------|
| Beck.   | Davis.   |
| Burns.  | DeBerry. |
| Collie. | Hill.    |
| Cotten. | Hornsby. |

Neal. Redditt.  
Nelson. Westerfeld.  
Oneal. Woodruff.  
Pace.

Absent—Excused.

Holbrook. Poage.  
Martin.

Amendment No. 38.

By Senator Westerfeld:

Amend H. B. No. 8, by adding next after Section 16A, a new section numbered and reading as follows:

"Sec. 16B. Occupation Tax on Carbon Black.

Sub-section 1. The following words, terms and phrases as used in this Act are hereby defined as follows:

(a) "Motor Vehicle" shall mean and include every vehicle operated upon the highways of this State which is propelled by the use of motor fuel.

(b) "Distributor" shall mean and include every person in this State who manufactures, extracts, processes or produces carbon black, and makes the first sale, distribution or use of the same in this State; and it shall also include every person in this State who ships, transports or imports any carbon black into this State and makes the first intrastate sale, distribution or use of the same in this State.

(c) "First Sale" shall mean and include the first sale, distribution or use in intrastate commerce of carbon black manufactured, extracted, processed, produced, imported into or otherwise produced in or brought into this State.

(d) "Person" shall mean and include every individual, firm, association, joint stock company, syndicate, co-partnership, corporation, trustee, agency or receiver.

(e) "Dealer" shall mean and include every person other than a distributor who engages in the business in this State of distributing or selling carbon black within this State.

(f) "Public Highway" shall mean and include every way or place of whatever nature open to the use of the public as a matter of right for the purpose of vehicular travel.

(g) "Comptroller" shall mean Comptroller of Public Accounts of the State of Texas.

Sub-section 2. (a) There is hereby imposed an occupation or excise tax of four (4%) per cent on the gross amount of each sale of carbon black within this State. The said tax shall be paid as hereinafter provided upon the first sale, distribution or use in Texas.

(b) The tax shall accrue on the first sale, distribution or use so that a single tax only will be collected on the same quantity of carbon black, it being intended to impose the tax at its source in Texas or soon thereafter as such carbon black may be subject to being taxed.

(c) No tax shall be imposed on carbon black, the imposing of which will constitute an unlawful burden upon interstate commerce and which is not subject to be taxed under the Constitution of the State of Texas and the United States; and provided, that the tax imposed herein shall be in lieu of any other excise or occupation tax imposed by the State or any political subdivision thereof, upon carbon black.

(d) Every distributor selling carbon black shall pay to the State of Texas an occupation or excise tax equal to four (4%) per cent of the gross amount of each such sale, so sold, distributed or used, and such tax shall be due and payable at the office of the Comptroller at Austin, Texas, on the 20th day of each month, the same to be based on such sales or use made during the calendar month next preceding, and at the same time, such distributor shall make and deliver to the Comptroller a report properly sworn to and executed by such distributor or his representative in charge, on such forms as the Comptroller shall prescribe, which, among other things shall give the number of pounds of carbon black sold, distributed or used in intrastate and interstate commerce, and exported during the preceding calendar month, and the number of pounds of carbon black used, distributed or otherwise lost upon which no tax is paid.

Sub-section 3. All distributors of carbon black in this State now engaged, or who desires to become engaged, in the sale or use of carbon black upon which such tax is required to be paid, shall, within thirty days from the date this law becomes effective, file a duly acknowledged application for carbon

black distributor's permit with the Comptroller on a form prescribed by him, to be furnished upon written request, the failure to furnish which shall be no excuse for the failure to file the same unless an absolute refusal is shown. Said form shall set forth the name under which such distributor transacts or intends to transact such business as distributor, the principal office, residence or place of business in Texas, and if other than an individual the principal officers or members thereof not to exceed three (3), and their office, street, or post office addresses. The Comptroller may require any other such information as he may desire in said application. No distributor shall sell any carbon black until such application has been filed, together with bond and the obtaining of a permit.

Sub-section 4. Upon receipt of the application and the bond hereinafter provided for, the Comptroller shall issue to every distributor a non-assignable, consecutively numbered permit authorizing the sale of carbon black in this State from the date of the issuance of said permit, until and including the following December 31st. On or before January 1st of each year, and before any distributor shall engage in selling carbon black after January 1st, an application shall be filed and a permit obtained for the calendar year, where such sale would be subject to the tax. Said permit shall provide that the same is revocable and shall be suspended upon violation of any provision of this Act or any reasonable rule or regulation adopted by the Comptroller. When such permit is revoked or suspended, said distributor shall not sell any carbon black until a new permit is granted or the suspension of the old permit removed. Provided, however, that no permit shall be issued if the applicant is delinquent for any taxes imposed by the provisions of this Act.

Sub-section 5. If any distributor has violated any provision of this act and the Comptroller desires to forfeit or suspend his permit, he shall give notice by registered mail, deposited in the United States mails, stating the reasons justifying forfeiture or suspension of such permit, and that the same shall be forfeited fifteen (15) days from said date unless said distributor purge himself

of such violation and pay any penalties that may be due. Provided, however, that if the Comptroller illegally attempts to revoke or suspend said permit, said distributor, by giving at least two (2) days notice to the Comptroller, may file a suit in equity in any Court of Travis County, Texas having jurisdiction to enjoin the Comptrollers' act and at any time after the expiration of said period the Comptroller may suspend or forfeit said permit unless enjoined. Any notice required to be given by the Comptroller may be mailed to the distributor at any place disclosed by application required in Section 3 hereof.

Sub-section 6. (a) Before any permit shall be issued, and before engaging in the sale of carbon black in Texas every distributor shall execute and file with the Comptroller a good and sufficient surety bond which shall run concurrently with the permit heretofore provided for in this act. The said bond shall be signed by said distributor, and a good and sufficient surety company or companies authorized to do business in this State, to be approved by the Comptroller in an amount not less than One Thousand Dollars (\$1,000.00), nor more than Twenty-five Thousand Dollars (\$25,000.00), payable to the State of Texas, and conditioned for the full, complete and faithful performance of all the conditions and requirements of this act, on a form to be prescribed by the Comptroller, with the approval of the Attorney General, expressly providing for the payment of all taxes, costs, penalties and interest at Austin, Texas. The amount of the bond required of any distributor shall be fixed by the Comptroller, and, subject to the limitations herein provided, additional bond shall be required by the Comptroller at any time an existing bond becomes insufficient. However, the distributor may demand a reduction of his bond after six (6) months from the effective date hereof in a sum to be not more than three times the highest tax said distributor has paid for any month during preceding six (6) months, but which shall never be less than the minimum nor more than the maximum aforesaid. Provided that the Comptroller shall have the authority at his discretion to permit any distributor to make reports and pay-

ments at shorter intervals than one month, and in such cases to permit bond based on the shorter intervals.

(b) The Comptroller shall have the right, if in his opinion any surety bond shall become unsatisfactory or unacceptable, to require the filing of a new bond. Should the distributor fail or refuse to supply a new bond within thirty (30) days after demand, the Comptroller shall forthwith cancel said distributor's permit. When said new bond has been furnished, the Comptroller shall cancel the bond for which said new bond is substituted. No recoveries on any bond or execution or any new bond or renewal of a permit shall invalidate any bond. A new bond may be demanded when any new permit is issued or revived, but no revocation or revival shall effect the validity of any bond.

(c) Any surety on any bond furnished by any distributor as above provided shall be released and discharged from any and all liability to the State of Texas accruing on such bond after the expiration of thirty (30) days from the date upon which such surety shall have lodged with the Comptroller written request to be released and discharged. Provided, however, that such request shall not operate to relieve, release or discharge such surety from any liability already accrued, or which shall accrue, before the expiration of said thirty (30) day period. The Comptroller shall promptly on receipt of notice of such request notify the distributor who furnished such bond, and unless such distributor shall on or before the expiration of such thirty (30) day period, file with the Comptroller a new bond with a surety company duly authorized to do business under the laws of the State, in the amount and form hereinbefore in this act provided, the Comptroller shall forthwith cancel the license of said distributor. If such new bond shall be furnished by said distributor as above provided, the Comptroller shall cancel and surrender the bond for which such new bond is substituted.

(d) That in lieu of giving a bond, any distributor may deposit in the Suspense Account of the State Treasurer, money in the amount of the bond that may be required, which shall never be released until secur-

ities are substituted for the same or a bond executed in lieu thereof, or until the Comptroller has made a complete and thorough investigation and authorized the same to be released; and provided, in lieu of cash or the bond required by this act, such distributor may deposit securities with the Comptroller, that shall be acceptable to him. Said securities shall be placed in the Treasury as other securities, but in all events shall be of the same class as the funds of the University of Texas may be invested in. Provided, however, that if, in the opinion of the Comptroller, the securities so deposited should become insufficient for the purpose for which deposited, he shall demand additional securities. Providing when default of payment of taxes is made by any distributor who has money and/or collateral deposited with the State Treasurer in lieu of a bond as herein provided, suit shall be instituted by the State and after the State has established its debt for delinquent taxes by judgement of Court, money on deposit in Suspense Account shall be withdrawn therefrom and shall be used to pay off and satisfy said judgement, and provided further, if collateral is on deposit with the State Treasurer, such collateral shall be sold by the Comptroller, and the proceeds of sale shall be used in paying off and satisfying said judgement.

Sub-section 7. All taxes, fines, penalties and interest due by any distributor to the State shall be a preferred lien, first and prior to any and all other existing liens, upon all of the property of any distributor, devoted to or used in his business as a distributor, which property shall include refinery, blending plants, storage tanks, warehouses, office buildings and equipment, tank trucks or other motor vehicles or any other property devoted to such use, and each tract of land on which such refinery, blending plant, tanks or other property is located, or which is used in carrying on such business. If any distributor shall fail to remit proper taxes due, the Comptroller may employ auditors or other persons to ascertain the correct amount due, and if such taxes have not been properly remitted, the distributor shall pay the reasonable expenses incurred in such investiga-

tion and audit as additional penalty. Provided, however, that all funds paid to the auditor of the Comptroller as expenses incurred in making audits, shall be placed in a special fund in the State Treasury, which shall be used until exhausted, for making other audits, and said sums are hereby appropriated for that purpose. Provided, that nothing herein shall prevent the Comptroller, when said fund is exhausted, from using other available funds for that purpose.

Sub-section 8. (a) Every distributor shall keep in Texas for a period of two years for the inspection at all times of the Comptroller and the Attorney General, or their authorized representatives, a complete record of all natural gas used by such distributor in the manufacture, extraction, processing or production of carbon black.

(b) He shall keep also in Texas for a period of two years a complete record of each and every sale, distribution or use of carbon black upon a form of manifest to be prescribed by the Comptroller and furnished by the distributor, which manifest shall be issued in duplicate and numbered consecutively. Said manifest shall show the date of sale, distribution or use the purchaser and his address, the quantity sold, the means delivery, including the license number and description if delivered in motor vehicle or trailer. Provided, however, that common carriers' shipments shall be supported by regular bills of lading. Provided further that in all deliveries of carbon black, other than those for rail or water transportation, the manifest shall show the time the carbon black was delivered into the motor vehicle or trailer. Provided further, with the exceptions of rail shipments, every person receiving said carbon black or any part of same, shall receipt upon the reverse side of said manifest for the quantity received by him. The manifest shall be signed by the distributor and the duplicate manifest shall be delivered to the person receiving the carbon black from said distributor who shall carry the same with said carbon black.

(c) For the purpose of enabling the authorized officers under this law to determine the tax liability of a distributor or refinery they shall

have the right to go upon the premises of said distributor or refinery, examine all the foregoing described records and all other accounts pertinent to the inquiry and incident to the conduct of the business of said distributor or refinery. The said authorized agents shall also have the right, as an incident to determining said tax liability, to gauge or measure the contents of all storage tanks, containers and other equipment and to take samples therefrom. For the foregoing purposes, said authorized officers shall also have the right to remain upon the said premises for such length of time as will be necessary to fully determine said tax liability.

(d) If any distributor fails or refuses to pay any tax, penalties or interest within the time and manner provided by this act, and it becomes necessary to bring suit or to intervene in any manner for the establishment or collection of said claim, in any judicial proceedings, any report filed in the office of the Comptroller by such distributor or his representative, or a certified copy thereof certified to by the Comptroller or Chief Clerk, showing the amount of carbon black sold by such distributor or his representative, on which such tax, penalties or interest have not been paid, or any audit made by the Comptroller or his representative from the books of said distributor, when signed and sworn to by such representative as being made from the records of said distributor or person from whom such distributor has brought, received or delivered carbon black whether from a transportation company or otherwise, such report or audit shall be admissible in evidence in such proceedings, and shall be prima facie evidence of the contents thereof; provided, however, that the incorrectness of said report or audit may be shown.

(e) In the event the Attorney General shall file suit or claim for taxes, provided for in the foregoing Section, and attach or file as an exhibit any report or audit of said distributor, and an affidavit made by the Comptroller or his representative that the taxes shown to be due by said report or audit are past due and unpaid, that all payments and credits have been allowed, then, unless the party resisting the same

shall file an answer in the same form and manner as required by Article 3736, Revised Civil Statutes of Texas of 1925, as amended by Chapter 239, Acts of the Regular Session of the 42nd Legislature, said audit or report shall be taken as prima facie evidence thereof, and the proceedings of said article are hereby made applicable to suits to collect taxes hereunder.

Sub-section 9. If any distributor shall (a) sell carbon black upon which a tax is required to be paid by this Act without at the time having a valid permit, or (b) fail to keep any of the records required to be kept by the provisions of this Act, or (c) fail to make the report or remittance required by Section 2 hereof, or (d) if any distributor or other person affected by this Act shall fail or refuse to abide by the provisions hereof, and the rules and regulations promulgated hereunder, or violate the same, he shall forfeit to the State as a penalty, the sum of not less than Ten Dollars (\$10.00), nor more than Five Hundred Dollars (\$500.00). Each day's violation shall constitute a separate offense and incur another penalty, which if not paid, shall be recovered in a suit by the Attorney General in a Court of competent jurisdiction in Travis County, Texas, or any other Court having jurisdiction. Provided, however, that in addition to the penalties above, if the distributor does not make the remittance within the time prescribed by law, he shall forfeit two per cent (2%) of the amount of the tax due. And if not paid within twenty (20) days from the due date, he shall forfeit an additional eight per cent (8%) penalty. All past due taxes and penalties shall draw interest at the rate of ten per cent (10%) per annum.

Sub-section 10. Every distributor at the time of making the report required by Section 2 (d) shall attach legal tender or make proper form of money order or exchange thereto payable to the State Treasurer in the amount of tax for the period covered by such report.

Sub-section 11. All of the moneys paid into the State Treasury under the provisions of this Act shall be set aside and deposited in the following manner, to-wit: one-fourth to the Available School Fund and three-

fourths to the Old Age Pensions Fund.

Sub-section 12. The Comptroller shall have the power and it shall be his duty from time to time to adopt, publish and enforce reasonable rules and regulations not inconsistent herewith for the purpose of carrying out the provisions of this Act.

Sub-section 13. (a) Whoever as distributor shall sell any carbon black upon which a tax is required by the provisions of the Act, to be paid without having at the time of said sale a valid permit, as required by said Act, or whoever as the agent, employee or representatives of a distributor, shall sell any such carbon black knowing that such distributor does not have a valid permit, and whoever shall destroy, mutilate or secrete any of the books and records required herein to be kept, or refuse access and examination of such records to the Comptroller or Attorney General, or their authorized representatives, or whoever shall, as a distributor, dealer, agent, employee or representative of a distributor or dealer, knowingly make any false entry or fail to make entries in the books and records required by the provisions of this Act to be kept by a distributor or a dealer, or whoever shall knowingly make a false or incomplete return or report as required by the provisions of this Act to be made, or whoever shall knowingly transport in any manner any carbon black under false billing, or whoever while transporting any carbon black shall wilfully refuse to stop the motor vehicle he is operating when called upon to do so by a person authorized hereunder to stop said motor vehicle, or refuses to permit the examination of his records and cargo by said person, shall be guilty of a felony and shall be punished by confinement in the State Penitentiary for not more than Two (2) years or by confinement in the county jail for not less than (1) month nor more than six (6) months, or by fine of not less than One Hundred Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00) or by both such fine and imprisonment.

(b) In addition to the foregoing penalties, it is herein provided that a conviction for any of the above named offenses shall automatically forfeit the right of said convicted

person to obtain a permit as distributor, as herein provided, for a period of two (2) years.

Sub-section 14. If any article, section, subsection, sentence, clause or phrase of this Act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this Act. The Legislature hereby declares that it would have passed this Act and each section, subsection, sentence, clause and phrase thereof irrespective of the fact that any one or more of the sections, subsections, sentences, clauses or phrases be declared unconstitutional.

Read.

Pending.

#### Amendment No. 39.

Senator Small sent up the following substitute for Westerfeld amendment:

By Senator Small:

Amend H. B. No. 8, by adding a new section to be known as Section —, which shall read as follows:

"Sec. —. Amend Article 7047, Revised Civil Statutes, 1925, by adding a new section which shall be known as Section 45(a), (b), (c), (d), (e) and (f) and read as follows:

Sec. 45(a). There is hereby levied an occupation tax on every person in this State manufacturing or producing carbon black; said tax to be two per cent (2%) of the market value of all carbon black produced or manufactured. The market value of carbon black, as that term is herein used, shall be the actual market value thereof plus any bonus or premium or other thing of value paid therefor, or the actual value which carbon black does reasonably bring in the due course of trade.

(b) The tax herein imposed shall be due and payable at the office of the Comptroller at Austin on the twenty-fifth day of each succeeding month, based on the business done the preceding calendar month, and on or before said date such manufacturer or producer shall make and deliver to the Comptroller a verified report showing all carbon black manufactured, produced and sold upon which a tax accrues, and such other information as the Comptroller may require.

(c) A complete record of the business done, together with any other information the Comptroller may require, shall be kept by such distributor; which said record shall be open to the Comptroller, Attorney General, Auditor and their representatives; the Comptroller shall adopt rules and regulations for the enforcement hereof.

(d) In the event any person engaged in the business of producing or manufacturing carbon black in this State shall become delinquent in the payment of taxes herein imposed, the Attorney General may enjoin such person from producing or manufacturing carbon black until the delinquent tax is paid, and the venue of any such suit for injunction is hereby fixed in Travis County.

(e) If any person shall violate any of the provisions hereof, he shall forfeit to the State of Texas as a penalty not less than Twenty-five Dollars (\$25.00), nor more than One Thousand Dollars (\$1,000.00) for each violation and each day's violation shall constitute a separate offense. If any person shall fail to pay said tax promptly, he shall forfeit two per cent (2%) thereof as penalty, and after the first twenty days he shall forfeit an additional eight per cent (8%). Delinquent taxes shall draw interest at the rate of eight per cent (8%) from due date. The State shall have a prior lien for all delinquent taxes, penalties and interest, on all property used by the producer or manufacturer in his business of manufacturing and producing carbon black.

(f) The term "Carbon Black" as herein used includes all black pigment produced in whole or in part from natural gas, casing head gas or residue gas by the impinging of a flame upon a channel disk or plate, and the tax herein imposed shall reach all products produced in such manner.

Read.

Pending.

#### Amendment No. 39-a.

By Senator Shivers:

Amend Small substitute by striking out the words "two per cent," wherever it occurs, and substituting therefor the words "one-fourth ( $\frac{1}{4}$ ) of one cent per pound."

**Motion to Table.**

Senator Small moved to table the Shivers amendment.

The motion prevailed by the following vote:

**Yeas—17.**

|           |             |
|-----------|-------------|
| Collie.   | Rawlings.   |
| Davis.    | Redditt.    |
| Holbrook. | Regan.      |
| Hornsby.  | Sanderford. |
| Isbell.   | Small.      |
| Moore.    | Stone.      |
| Neal.     | Van Zandt.  |
| Nelson.   | Weinert.    |
| Oneal.    |             |

**Nays—10.**

|           |             |
|-----------|-------------|
| Beck.     | Pace.       |
| Blackert. | Shivers.    |
| Cotten.   | Sulak.      |
| DeBerry.  | Westerfeld. |
| Hill.     | Woodruff.   |

**Absent—Excused.**

|         |        |
|---------|--------|
| Burns.  | Poage. |
| Martin. |        |

**Amendment No. 39-b.**

By Senator Moore:

Amend the Small substitute by inserting before the words "two per cent" the words "1/16 of 1¢ per pound where the market value is 3¢ per pound or less and where the value of such carbon black exceeds 3¢ per pound such tax to be"

Read and adopted by the following vote:

**Yeas—24.**

|           |             |
|-----------|-------------|
| Blackert. | Poage.      |
| Collie.   | Rawlings.   |
| Davis.    | Redditt.    |
| DeBerry.  | Regan.      |
| Holbrook. | Sanderford. |
| Hornsby.  | Shivers.    |
| Isbell.   | Small.      |
| Moore.    | Stone.      |
| Neal.     | Sulak.      |
| Nelson.   | Van Zandt.  |
| Oneal.    | Weinert.    |
| Pace.     | Woodruff.   |

**Nays—4.**

|         |             |
|---------|-------------|
| Beck.   | Hill.       |
| Cotten. | Westerfeld. |

**Absent—Excused.**

|        |         |
|--------|---------|
| Burns. | Martin. |
|--------|---------|

**Amendment No. 39-c.**

By Senator Van Zandt:

Amend Small substitute, as amended, by changing 3¢ per pound to 4¢ per pound, and change 2 per cent to 3 per cent, and change 1/16 to 1/12. Read and adopted.

The Small substitute as amended was adopted by the following vote:

**Yeas—24.**

|           |             |
|-----------|-------------|
| Beck.     | Oneal.      |
| Blackert. | Pace.       |
| Collie.   | Poage.      |
| Cotton.   | Rawlings.   |
| Davis.    | Redditt.    |
| DeBerry.  | Regan.      |
| Holbrook. | Sanderford. |
| Hornsby.  | Small.      |
| Isbell.   | Stone.      |
| Moore.    | Sulak.      |
| Neal.     | Van Zandt.  |
| Nelson.   | Weinert.    |

**Nays—3.**

|             |           |
|-------------|-----------|
| Hill.       | Woodruff. |
| Westerfeld. |           |

**Absent—Excused.**

|         |          |
|---------|----------|
| Burns.  | Shivers. |
| Martin. |          |

The Westerfeld amendment as substituted and amended was adopted by a viva voce vote.

**Amendment No. 39-d.**

By Senator Davis:

Amend H. B. No. 8, by striking out the following words in Section 4, page 5, lines 37 to 39, inclusive: "and including football games, baseball games, tennis matches, golf tournaments, and all other like games or exhibitions."

Read and adopted.

**Message From the House.**

The Chair recognized the Doorkeeper, who introduced a messenger from the House, with the following message:

Hall of the House of Representatives,  
Austin, Texas, Oct. 20, 1936.  
Hon. Walter F. Woodul, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following bill:



H. B. No. 32, A bill to be entitled "An Act defining certain words, terms and phrases for the purposes hereof; providing and imposing an occupation tax on the first sale, distribution or use of carbon black in this State; providing certain exceptions; requiring distributors of carbon black to obtain a permit and file with the Comptroller of Public Accounts a surety bond or in lieu of bond to deposit in a suspense account in the State Treasury an amount of money equal to the amount of bonds required; regulating the issuance of such permits and providing for the suspension and revocation of permits issued; etc., and declaring an emergency."

Respectfully submitted,

A. C. DUNN,

Acting Chief Clerk, House of Representatives.

#### Motion to Reconsider.

Senator DeBerry moved to reconsider the vote by which the DeBerry amendment, as substituted, to Committee Amendment No. 5, was adopted.

The motion prevailed.

Senator Oneal received unanimous consent to withdraw his substitute amendment.

Question: Shall the DeBerry amendment be adopted?

The amendment was adopted by a viva voce vote.

#### Motion to Recess.

On motion of Senator Collie at 12:01 o'clock p. m., the Senate recessed until 2 o'clock p. m.

#### After Recess.

The Chair called the Senate to order at 2 o'clock p. m.

Pending business was H. B. No. 8.

#### Amendment No. 40.

By Senator Oneal:

Amend H. B. No. 8, by adding immediately at the end of Subdivision (a) of Section 6 and as a part of said subdivision the following:

"The tax levied and assessed herein shall be upon such notes and obligations as are renewed, extended, or made and executed on or after the first day of the calendar month next succeeding effective date of this Act,

or the security for which, as provided hereinbefore, is filed for record on or after the first day of the calendar month next succeeding the effective date of this Act."

Read and adopted.

#### Amendment No. 41.

By Senator Oneal:

Amend House Bill No. 8, by adding immediately after Section 14 another section to be numbered 14A as follows:

"Provided that the additional tax levied in Section No. 14 next above in this Act shall not be levied upon oil produced from marginal wells having a potential daily production of not exceeding five barrels of oil a day. The burden of proving that any well is a marginal well with a potential production of not exceeding five barrels a day shall be upon the owner, operator, or person required under this Act to pay the tax levied hereunder. Any well from which the oil produced therefrom is run into a flow tank into which is also run oil from a well not exempt under this Act shall be conclusively presumed not exempt hereunder.

Provided further that if the Court of final resort should hold that the including of this section in this Act had the effect of making unconstitutional that part of this Act levying an additional tax on oil, then this section shall be by such Court held inoperative and the constitutionality of the levy of additional taxes on oil as provided in Section 14 hereof saved.

It is here declared to be the intent of the Legislature to levy the additional tax provided in Section 14 hereof, and, if it can be done without rendering Section 14 hereof void and unconstitutional, to make the exemption provided in this section; otherwise not to make such exemption but to make in any event the levy of tax provided in Section 14 hereof."

Read and failed of adoption by the following vote:

Yeas—9.

|           |           |
|-----------|-----------|
| Blackert. | Poage.    |
| Collie.   | Small.    |
| Davis.    | Sulak.    |
| Holbrook. | Woodruff. |
| Oneal.    |           |

## Nays—19.

|          |             |
|----------|-------------|
| Beck.    | Rawlings.   |
| Burns.   | Redditt.    |
| Cotten.  | Regan.      |
| DeBerry. | Sanderford. |
| Hill.    | Shivers.    |
| Hornsby. | Stone.      |
| Isbell.  | Van Zandt.  |
| Moore.   | Weinert.    |
| Neal.    | Westerfeld. |
| Pace.    |             |

## Absent—Excused.

|         |         |
|---------|---------|
| Martin. | Nelson. |
|---------|---------|

## Amendment No. 42.

By Senators Shivers and Burns:

Amend H. B. 8, by adding a section thereof to read as follows:

"Each individual company association or corporation engaged in the business of cementing oil wells, shall make quarterly on the first day of January, April, July, and October of each year, a report to the Comptroller under oath, showing gross receipts, during the preceding quarter. At the time of filing such report, said individuals, companies, associations, or corporations shall pay to the State Treasurer an occupation tax equal to two per cent (2%), of said gross receipts as shown by said report.

Read and adopted by the following vote:

## Yeas—22.

|          |             |
|----------|-------------|
| Beck.    | Pace.       |
| Burns.   | Poage.      |
| Collie.  | Redditt.    |
| Cotten.  | Sanderford. |
| DeBerry. | Shivers.    |
| Hill.    | Stone.      |
| Hornsby. | Sulak.      |
| Isbell.  | Van Zandt.  |
| Moore.   | Weinert.    |
| Nelson.  | Westerfeld. |
| Oneal.   | Woodruff.   |

## Nays—7.

|           |           |
|-----------|-----------|
| Blackert. | Rawlings. |
| Davis.    | Regan.    |
| Holbrook. | Small.    |
| Neal.     |           |

## Absent—Excused.

|         |  |
|---------|--|
| Martin. |  |
|---------|--|

## Amendment No. 43.

By Senator Sanderford:

Amend H. B. 8, striking out all taxing provisions and inserting in

lieu thereof, and in the proper place, the following:

Be it enacted by the Legislature of the State of Texas:

Section 1. Imposition of the Tax. For the purpose of creating an Old Age Assistance Fund in the State of Texas, and for paying the benefits provided for in Article 6243 of the Revised Civil Statutes of the Second Called Session of the Forty-fourth Legislature, there is hereby levied upon and there shall be collected from all persons making sales at retail, as herein defined, an annual tax equal to two per cent (2%) of the gross retail sales thereof, less deductions allowed in Section 6 of this Act.

Sec. 2. Providing that bread, meat, sugar, coffee, milk, and vegetable products when purchased for home consumption shall be exempt from the tax imposed by this Act. Providing further that articles of clothing which have a selling price of Two Dollars (\$2.00) or less per article and all suits of clothing which have a selling price of Five Dollars (\$5.00) or less per suit shall be exempt from the tax levied by this Act.

Sec. 3. Any person engaged in the business of making sales at retail who is at the same time engaged in some other kind of business, occupation or profession not taxable under this Act shall keep books to show separately the transactions used in determining the tax herein levied. In the event such person fails to keep such separate books, there shall be levied upon him a tax based upon the entire gross retail sales of both, or all of his business.

Sec. 4. The tax hereby imposed shall be payable from and after January 1, 1937, as herein provided.

Sec. 5. Providing the State Comptroller's Department shall be the agency designated to collect the tax imposed by this Act and that the State Comptroller's Department shall be allowed one per cent (1%) of the total annual collections resulting from this Act as expense for the administration of this Act.

Sec. 6. Deductions. — (a). In computing the amount of tax levied under the provisions of this Act for any year, the taxpayer may deduct from the gross retail sales taxable under this Act the sum of Five Hundred Dollars (\$500.00). Every

person exercising any privilege taxable hereunder for any fractional part of the tax year shall be entitled to a deduction of that part of the sum of Five Hundred Dollars (\$500.00) which bears the same proportion to the total sum of Five Hundred Dollars (\$500.00) that the period of time during which such person is engaged in such business bears to the entire year. Upon filing monthly returns provided for in this Act, a twelfth part of the deduction granted in this Section may be claimed and deducted on such returns.

(b). No person subject to a tax under this Act need include in the amount of his gross retail sales used for the computation of the tax any proceeds of his business derived from sales to the United States, the State of Texas, its departments of institutions, or any of its subdivisions, or any proceeds of his business which are exempt from taxation by reason of the provisions of the Constitution of the United States, or the Constitution of Texas.

Sec. 7. Additional Tax. — The tax imposed by this Act shall be in addition to all other license fees and levied by law as a condition precedent to engaging in or conducting any business taxable hereunder, except as in this Act otherwise specifically provided, and this Act shall not be construed as repealing any existing tax law.

Sec. 8. The tax hereby imposed shall be collected by the retailer from the consumer in so far as same can be done.

Sec. 9. It shall be unlawful for any retailer to advertise or hold out or state to the public or any consumer, directly or indirectly, that the tax or any part thereof imposed by this Act will be assumed or absorbed by the retailer or that it will not be added to the selling price of the property sold, or if added that it or any part thereof will be refunded. Any person violating any of the provisions of this Section shall be guilty of a misdemeanor and upon conviction shall be fined not to exceed Two Hundred Dollars (\$200.00).

Sec. 10. Any retailer convicted of violating the provisions of Section 9 of this Act shall forfeit his license procured under the terms hereof.

Sec. 11. Monthly return; computation of tax; payment.—The taxes levied hereunder shall be a personal obligation of the retail taxpayer and shall be due and payable in monthly installments, on or before the fifteenth day of the month next succeeding the month in which the tax accrued. The taxpayer shall, on or before the fifteenth day of each month, make out a return for the preceding month in the form required by the Comptroller of Public Accounts of the tax for which he is liable, and he shall mail the return, together with a remittance for the amount of the tax, to the office of the Comptroller. Such monthly return shall be signed by the taxpayer or his duly authorized agent.

Sec. 12. Any person taxable under this Act, doing business wholly or partly on a credit basis, may make application to the Comptroller for permission to prepare his returns on the basis of cash actually received. Such application shall be granted by the Comptroller under such rules and regulations as the Comptroller may prescribe. When such application is granted, the taxpayer shall thereafter until further order of the Comptroller include in each return all cash received during the month preceding, and shall pay taxes on the basis of such cash receipts at the time of filing such return.

Sec. 13. Annual return; payment of tax after end of tax year.—On or before thirty days after the end of the tax year each person liable for the payment of a tax under this Act shall make an annual return in the form required by the Comptroller, showing the total gross proceeds of his business for the preceding tax year, and showing the amount of tax payable by him under this Act, and, after deducting the amount of the monthly payments made during such tax year, he shall transmit the return to the Comptroller, with his remittance covering the residue, if any, of the tax payable by him for the preceding tax year. Such return shall be verified by the oath of the taxpayer, or his duly authorized agent. The Comptroller, for good cause shown, may extend the time for making the annual return on the application of any taxpayer. The Comptroller shall, on application of any taxpayer, permit

him to use as the tax year for the purposes of this Act the fiscal year used in the ordinary course of his business instead of the fiscal year of the State of Texas.

Sec. 14. Consolidated returns.—Any person engaging in two or more places in the same business or business of like character taxable under this Act, shall file a consolidated return covering all such business activities engaged in within this State and shall be entitled to deduct one exemption only in the amount of Five Hundred Dollars (\$500.00), as allowed in Section 7.

Sec. 15. Examination of returns; Determination of tax; Deficiency assessments.—As soon as practicable after each return is filed the Comptroller shall examine it. If it then appears that the correct amount of tax is greater or less than that shown in the return, the tax shall be recomputed and the correct tax determined. If the amount paid exceeds that which should have been paid on the basis on the tax so recomputed, the excess so paid with interest at four per centum per annum shall be credited against a subsequent tax or shall be refunded if requested by the taxpayer.

Sec. 16. If the amount paid is less than the amount which should have been paid, the deficiency, together with interest thereon at the rate of one-half of one per cent per month from the time the tax was due, shall become due and payable after notice and hearing as herein provided.

Sec. 17. If any part of the deficiency is due to negligent or intentional disregard of this Act, or of authorized rules and regulations of the Comptroller, but without intent to defraud, there shall be added as a penalty ten per cent of the total amount of the deficiency in the tax, and interest shall be collected at the rate of one per cent per month on the amount of such deficiency in the tax from the time it was due, which interest and penalty shall become due and payable after notice and hearing as hereinafter provided.

Sec. 18. If any part of the deficiency is due to a fraudulent intent to evade the tax, then there shall be added as a penalty one hundred per cent of such deficiency and, in such a case, the whole

amount of tax unpaid, together with the penalty, shall become due and payable after notice and hearing as hereinafter provided, and an additional one per cent per month on the tax shall be added from the date such tax was due until paid.

Sec. 19. Whenever notice is required under the provisions of this Act, such notice shall be given either by personal service or by registered mail addressed to the last known address of the taxpayer.

Sec. 20. No deficiency, interest or penalty shall be assessed for any year after the expiration of three years from the date set for the filing of the annual return for such year.

Sec. 21. Remittances.—All remittances of taxes imposed by this Act shall be made to the Comptroller by bank draft, check, cashier's check, money order, certificate of deposit or money. The Comptroller shall issue his receipt, and shall forthwith deposit all moneys received in the State Treasury, where it shall be credited as in this Act provided; provided that no remittance other than cash shall be final discharge of liability for the tax herein assessed and levied unless and until it has been paid in cash.

Sec. 22. Failure to make return. If any person fail or refuse to file a return, the Comptroller shall proceed to assess the tax against such person and shall notify him of the amount thereof. Such tax shall become due and payable after notice and hearing as hereinafter provided.

Sec. 23. As soon as possible after procuring such information, the Comptroller shall proceed to assess the tax against such person, and shall notify him of the amount thereof. Such tax shall become due and payable after notice and hearing as hereinafter provided.

Sec. 24. In case of failure to file any return required by this Act, within the time prescribed by this Act, or prescribed by the Comptroller in pursuance of the provisions of this Act, twenty-five per cent of the tax shall be added as a penalty; provided, that when a return is filed after such time and it is shown that the failure to file was due to reasonable cause, and not due to willful neglect, no such addition shall be made to the tax. The amount so added shall be collected as a part of the tax.

Sec. 25. Tax Debt Due State; Collection.—(a) If the tax imposed by this Act is not paid on the date the same is required to be paid under the provisions of this Act, the Comptroller, or some person designated by him may cause a demand to be made on the taxpayer for the payment thereof. If such tax remains unpaid for ten days after such demand has been made and no proceedings have been taken to review the same, the Comptroller may issue a warrant under the official seal of his office, directed to the sheriff of any county of the State, or to any State officer authorized to serve process, commanding said sheriff or other officer to levy upon and sell the property of the taxpayer, used in connection with the business for the privilege of doing which the tax is levied, found within his jurisdiction, for the payment of the amount thereof with the added penalties, interest and the cost of executing the warrant. Such warrant shall be returned to the Comptroller, together with the money collected by virtue thereof within the time therein specified, which shall not be less than twenty (20) nor more than ninety (90) days from the date of the warrant. The sheriff or other officer to whom such warrant shall be directed shall proceed upon the same in all respects and with like effect and in the same manner as prescribed by law in respect to executions issued against property upon judgments by a court of record, and shall be entitled to the same fees for his services in executing the warrant, to be collected in the same manner. The State of Texas, through the Comptroller, or some officer or agent designated by him, is hereby authorized to bid for and purchase any property sold under the provisions hereof.

Sec. 26. In addition to the mode of collection provided herein, the Comptroller and/or the Attorney General may bring an action at law in the county in which the business or any part thereof is carried on, to collect and recover the amount of taxes, interest and/or penalties due from any taxpayer.

Sec. 27. Tax Lien; Sale of Business.—The tax and any interest or penalties imposed by this Act shall be a lien upon the property of the taxpayer used in connection with

the business for the privilege of doing which the tax is imposed. If any person liable for a tax levied hereunder shall sell out his business or stock of goods, or shall quit the business, such person shall make a final return within fifteen (15) days after the date of selling or quitting business. His successor, if any, shall be required to withhold sufficient of the purchase money to cover the amount of such taxes and interest or penalties due and unpaid until such time as the former owner shall produce a receipt from the Comptroller showing that they have been paid, or a certificate stating that no taxes are due. If the purchaser of a business or stock of goods shall fail to withhold purchase money as above provided, he shall be personally liable for the payment of the taxes, interest and penalties accrued and unpaid on account of the operation of the business of the former owner.

Sec. 28. Jeopardy Assessment.—If the Comptroller finds that a person liable for tax under any provisions of this Act designs quickly to depart from the State, or to remove his property therefrom, or to conceal himself or his property therein, or to do any other act tending to prejudice or to render wholly or partly ineffectual proceedings to collect such tax unless such proceedings be brought without delay, the Comptroller shall cause notice of such findings to be given such person, together with a demand for an immediate return and immediate payment of such tax. Thereupon such tax shall become immediately due and payable. If such person (1) is not in default in making any return or paying any tax prescribed by this Act, and (2) furnishes evidence satisfactory to the Comptroller under regulations to be prescribed by the Comptroller's finding relates, then such tax shall not be payable prior to the time otherwise fixed for payment.

Sec. 29. Corporation; Dissolution; Withdrawal.—The Secretary of State shall withhold the issuance of any certificate of dissolution or withdrawal in the case of any corporation organized under the laws of this State, or organized under the laws of another state, and admitted to do business in this State, until

the receipt of a notice from the Comptroller to the effect that all taxes levied under this Act against any such corporation have been paid, or until he shall be notified by the Comptroller that the applicant is not indebted for any taxes levied hereunder.

**Sec. 30. Failure to Obtain License or Pay Tax; Injunction.**—Any person against whom a tax shall be assessed as herein provided may be restrained and enjoined by proper proceedings instituted in the name of the State of Texas, brought by the Attorney General at the request of the Comptroller, from engaging and/or continuing a business for which a privilege tax is required by the provisions of this Act, until such tax shall have been paid, and/or license secured, and until such person shall have complied with the provisions of this Act. Venue for such suits shall be fixed in Travis County, or in the county in which the taxpayer resides.

**Sec. 31. Records and Special Returns.**—Every person liable to any tax imposed by this Act, shall keep such records, render oath to such statements, make such returns, and comply with such rules and regulations as the Comptroller may from time to time prescribe. Whenever in the judgment of the Comptroller it is necessary, he may require any person by notice served upon him, to make a return, render under oath such statements, or keep such records, as the Comptroller deems sufficient to show whether or not such person is liable to tax under this Act.

**Sec. 32. Comptroller, Deputies or Employees May Subpoena Witnesses.**—The Comptroller may himself, or by his duly appointed deputies and agents, examine the books, records and papers of any person subject to taxation under this Act. The Comptroller, or any of his deputies or agents, may issue a subpoena requiring any person to appear before him to be examined with reference to any matter within the scope of the inquiry or investigation being conducted by such Comptroller, or his deputy, and to produce any books, records or papers pertaining thereto. The Comptroller, or any deputy, may administer an oath to any witness concerning any matter before the Comptroller. In case of disobedience of a subpoena the

Comptroller, or his deputy, may invoke the aid of any district court in the State of Texas in requiring the attendance and testimony of witnesses, and the production of books, papers and documents. Any of the district courts of this State, in case of refusal to obey a subpoena, may issue an order requiring such person to appear before said Comptroller, or deputy, and produce books and papers, if so ordered, and any evidence touching the matter in question, and any failure to obey such order of the court may be punished by said court as in contempt thereof.

**Sec. 33. Testimony; Immunity.**—No person shall be excused from testifying or from producing any books, papers, records, or memoranda in any investigation, or upon any hearing, when ordered to do so by the Comptroller upon the ground that the testimony or evidence, documentary or otherwise, may tend to incriminate him, or subject him to a criminal penalty; but no person shall be prosecuted or subjected to any criminal penalty for, or on account of, any transaction made or thing concerning which he may testify or produce evidence, documentary or otherwise, before the Comptroller, or his agent. No person so testifying shall be exempt from prosecution and punishment for perjury committed in so testifying.

**Sec. 34.** The Comptroller shall publish annually a report containing his rulings and orders, and said report shall include such statistical information of a general character as may be deemed of general interest. Unless, in accordance with a judicial order, the Comptroller, his agents or employees, or former Comptroller, his agents or employees, shall not divulge any facts or information obtained in connection with the administration of that portion of this Act pertaining to the tax herein levied, and all reports filed by the taxpayer shall be considered and deemed privileged and confidential information.

**Sec. 35. Appeal; Correction of Assessment; Injunction.**—If the Comptroller, after examining the returns of any taxpayer, determines that the taxpayer is indebted to the State by reason of a deficiency accompanying such writ, the Comptroller shall give such taxpayer notice

of the intention to levy such deficiency. Such taxpayer may, if he so desires, and serves notice thereof upon the Comptroller within twenty (20) days, demand a hearing on the question of the levy of such deficiency. Thereupon, the Comptroller shall set a time and place for hearing and shall give the taxpayer reasonable notice thereof.

Sec. 36. The taxpayer shall be entitled to appear before the Comptroller and be represented by counsel, and present testimony and argument. After the hearing, the Comptroller shall render his decision in writing and by order levy any deficiency found by him to be due and payable.

Sec. 37. If any taxpayer is aggrieved by any decision of the Comptroller, he shall be required to pay the amount of the taxes, interest and penalties found to be due by the Comptroller, and shall be permitted to bring an action in the district court in the county in which the business for the privilege of doing which the tax is levied is carried on, to recover the amount of the taxes alleged to have been unlawfully levied upon him. Such action shall be conducted in accordance with the statutes and rules of procedure now applicable to civil suits in the State of Texas. The taxes paid by such aggrieved taxpayer on such deficiency shall be deposited with the State Treasurer in the "Suspense Account" and shall be so held by the Treasurer pending the final determination of said suit.

Sec. 38. Any action brought under the preceding section shall be against the State of Texas, and citation shall issue thereon to the Comptroller, and to the county attorney of the county in which said suit is brought.

Sec. 39. In the event any taxpayer is found entitled to recover any sums paid pursuant to the orders of the Comptroller, as hereinbefore provided, such sums shall be paid from the suspense account upon the warrant of the Comptroller.

Sec. 40. No injunction shall issue to stay proceedings for assessment or collection of any taxes levied under this Act.

Sec. 41. Offenses; Penalties.—It shall be unlawful for any person to refuse to make the return required by this Act, or to make any false or fraudulent return, or any false state-

ment in any return, with intent to defraud the State, or to avoid the payment of the tax, or any part thereof, imposed by this Act, or for any person to aid or abet another in any act to evade payment of the tax, or any part thereof, imposed by this Act, or for the president, vice-president, secretary, treasurer, or any officer or employee of any company to make or permit to be made for any company, corporation or association any false return, or any false statement in any return required in this Act, with the intention to evade the payment of any tax hereunder.

Persons violating any of the provisions of this Act shall be guilty of a felony and on conviction thereof shall be imprisoned in the State Penitentiary for a period of not less than one nor more than five years. In addition to the foregoing penalty, any person who shall knowingly swear to or verify any false or fraudulent statement with the intent aforesaid, shall be guilty of the offense of false swearing, and on conviction thereof shall be punished in the manner provided by law.

Sec. 42. Any person who shall engage in any business in this State which is taxable under this Act, and who fails to secure from the Comptroller a license to engage in such business after a license to do so shall have expired, or shall have been suspended by the Comptroller with the intent to defraud the State, shall be guilty of a misdemeanor, and shall be punished by a fine of not more than one year, or by both fine and imprisonment.

Sec. 43. The Comptroller shall have the power, after a hearing to suspend the license of any person who shall violate or fail to comply with any provisions of this Act, or any rule or regulation promulgated by the Comptroller pursuant to the provisions of this Act. The Comptroller shall have power to restore licenses after suspension. If any person shall engage in business taxable under this Act while his license is in suspense, the tax imposed with respect thereto shall nevertheless be imposed and be payable with respect to such business. Any person whose license has been revoked as herein provided shall have the right to appeal from the ruling of the Comptroller by an appeal to the District

Court. Venue for such appeals shall be fixed in Travis County, Texas.

Sec. 44. The sums of money received and collected under the provisions of this Act shall be deposited by the Comptroller in the State Treasury to the credit of the Old Age Assistance Fund.

The following amounts are hereby appropriated from said fund for the specific uses and purposes set forth, as follows:

1. To the Director of Old Age Assistance Commission for each fiscal year, the amount necessary to defray the expenses of administering the Old Age Assistance Fund, not to exceed one per cent of the total revenues derived under the provisions of this Act.

2. A sufficient sum of money to pay the Old Age Assistance Compensation, each fiscal year, as provided for under the terms of Article 6243 of the Revised Civil Statutes, Acts of the Second Called Session of the Forty-Fourth Legislature.

3. Any sums remaining after payment of the above appropriation shall remain to the credit of said fund.

Sec. 45. Definitions. That when used in the tax sections of this Act, the following definitions shall be applied:

(a). The term "person" includes any individual, firm, co-partnership, joint adventure, association, corporation company, estate, trust, or any other group or combination acting as a unit; and the plural, as well as the singular number, unless the intent on to give a more limited meaning is disclosed by the context.

(b). The term "sale at retail" means any transaction by which is transferred for a consideration the ownership of tangible personal property when such transfer is made in the ordinary course of the transferor's business and is made to the transferee for consumption or use, or for any other purpose than for resale in the form of tangible personal property. The term "sale at retail" includes conditional sales, installment lease sales, and any other transfer of such property when the title is retained as security for the purchase price but is intended to be transferred later.

(c). The term "sale at retail" shall not include an isolated transaction in which any tangible prop-

erty is sold, transferred, offered for sale, or delivered by the owner thereof, or by his representative for the owner's account, such sale, transfer or offer for sale, or delivery, not being made in the ordinary course of repeated and successive transactions of a like character by such owner, or on his account by such representative.

(d). The term "sale at retail" includes the sale of electricity for light, heat, and power, the sale of tickets or the right of admission to any place operated and maintained for amusement purposes, tolls and rentals charged by telegraph and telephone companies, and the sale of natural and artificial gas when made to the consumer or user for the consumption of use, rather than for resale.

(e). The term "gross retail sales" means the amount received in money, credits, property or other thing of value in consideration of sale at retail within this State, without any deduction on account of the cost of the property sold, the cost of materials used, the cost of labor or services purchased, amounts paid for interest or discounts, or any other expense whatsoever, nor shall any deduction be allowed for losses, credits or refunds. The sale price of returned goods may be deducted.

(f). The terms "business" includes all activities engaged in by any person, or caused to be engaged in by him with the object of gain, benefit, or advantage, either direct or indirect.

(g). The term "tax year" or "taxable year" means the fiscal year of the State of Texas, or the taxpayer's fiscal year, when permission is obtained by him from the Comptroller to use his fiscal year as the tax period in lieu thereof.

(h). The word "taxpayer" means any person liable for any tax hereunder.

(i). The word "tax" shall include all taxes, interest or penalties levied under this Act.

(j). The term "Comptroller" when used in this Act means "The Comptroller of Public Accounts of the State of Texas."

(k). The term "Director" when used in this Act means "Director of Old Age Assistance."

Sec. 46. The Director and Comptroller shall have the authority to



prepare such forms as may be necessary for the administration of this Act, and to promulgate rules and regulations not inconsistent with the provisions hereof for the purpose of placing same into effect.

Sec. 47. Each Section of this Act, and each sub-section, sentence, clause and phrase is hereby declared to be independently operative, and if any section, sub-section, sentence, clause or phrase of this Act shall be declared invalid by any court of competent jurisdiction, it shall not affect or invalidate the remainder of this Act.

Sec. 48. The fact that the citizens of Texas by their recent overwhelming vote have expressed their desire to give the citizens of this State past the age of 65 years the assistance herein granted, and the further fact that there are many citizens who are over the age of 65 years and who are unemployed and do not have sufficient funds to buy the actual necessities of life, and they are in actual need at this time, creates an emergency and an imperative public necessity, demanding the suspension of the constitutional rule requiring bills to be read on three separate days in each house, and said rule is hereby suspended, and this Act shall take effect and be in force from and after its passage, and it is enacted.

#### Motion to Table.

Senator De Perry moved to table the amendment.

The motion prevailed by the following vote:

#### Yeas—19.

|           |             |
|-----------|-------------|
| Beck.     | Oneal.      |
| Blackert. | Pace.       |
| Burns.    | Poage.      |
| Cotten.   | Rawlings.   |
| DeBerry.  | Redditt.    |
| Hill.     | Shivers.    |
| Hornsby.  | Sulak.      |
| Isbell.   | Van Zandt.  |
| Moore.    | Westerfeld. |
| Nelson.   |             |

#### Nays—8.

|             |           |
|-------------|-----------|
| Davis.      | Small.    |
| Holbrook.   | Stone.    |
| Neal.       | Weinert.  |
| Sanderford. | Woodruff. |

#### Absent—Excused.

|         |        |
|---------|--------|
| Martin. | Regan. |
|---------|--------|

(Pair Recorded.)

Senator Collie (present) who would vote yea, with Senator Martin (absent) who would vote nay.

#### Amendment No. 44.

By Senators Moore and Weinert:  
Amend H. B. No. 8, Sec. 16 sub. (a) by striking out "\$1.20" and inserting in lieu thereof "96 cents"

The amendment was adopted by the following vote:

#### Yeas—24.

|           |             |
|-----------|-------------|
| Beck.     | Poage.      |
| Blackert. | Rawlings.   |
| Burns.    | Redditt.    |
| Collie.   | Sanderford. |
| Davis.    | Shivers.    |
| Holbrook. | Small.      |
| Isbell.   | Stone.      |
| Moore.    | Sulak.      |
| Neal.     | Van Zandt.  |
| Nelson.   | Weinert.    |
| Oneal.    | Westerfeld. |
| Pace.     | Woodruff.   |

#### Nays—4.

|          |          |
|----------|----------|
| Cotten.  | Hill.    |
| DeBerry. | Hornsby. |

#### Absent—Excused.

|         |        |
|---------|--------|
| Martin. | Regan. |
|---------|--------|

#### Senator Excused.

Senator Martin was excused today and tomorrow on account of important business on motion of Senator Collie.

#### Reason for Vote.

Mr. President: I vote "nay" on the motion of the Senator from Red River County to table the sales tax amendment by the Senator from Bell County, because it is apparent that the other levies contained in the bill are not going to be sufficient to pay the Old Age Assistance Allotments in full. I favor a luxury sales tax to supplement other levies contained in said bill.

**WOODRUFF.**

#### Amendment No. 45.

By Senator Poage:

Amend H. B. No. 8, Section 4, by adding a new subsection to be known as Subsection 8, to read as follows:

"Every person, firm, association and/or corporation owning and/or operating any place of amusement and/or amusement device and/or any advertising or publicity device which pays or promises to pay any money, reward or thing of value to any visitor at such place of amusement, advertising or publicity device, or to any person who plays or operates any such amusement, advertising or publicity device, and including specifically all "bank-night" awards and all prizes given in advertising and publicity contests, shall file with the State Comptroller a quarterly report as provided in the first paragraph of this Section 4, which report shall show the total amount of money and/or value of all awards and/or prizes given during the periods covered by such reports. Said person, firm, association and/or corporation, at the time of making such report, shall pay to the Treasurer of this State a tax equal to twenty per cent (20%) of the amount of money and/or value of the goods and/or property so given or awarded as prizes as before set out. Nothing in this subsection shall ever be construed to legalize or authorize any contest practice or device now prohibited by law.

Read and adopted.

#### Amendment No. 46.

By Senators Hill and Nelson:

Amend House Bill No. 8, as amended by Small Amendment Section No. 1, Article 7064A by adding at the close of paragraph one thereof the following:

"Nothing herein shall be construed to include Fraternal Benefit Insurance Societies" and by striking from said paragraph the following:

"Fraternal Benefit Society."

Read and adopted.

#### Amendment No. 47.

By Senator Hill:

Amend H. B. No. 8, by adding the following new sections, to be numbered 16a, 16b, 16c, 16d, 16e, 16f, 16g, 16h, 16i, 16j, 16k, 16l, 16m and 16n:

"Sec. 16a. The right-of-ways of all State designated highways belonging to the State shall be subject to development by the State and to lease or contract for the recovery of petroleum oil and/or natural gas

in tracts of such size as may from time to time be determined by the Board of Mineral Development, subject to the conditions contained in this Act.

"Sec. 16b. The Board of Mineral Development is hereby authorized and it is made its duty to advertise for (1) proposals to lease for oil and/or gas development of the right-of-ways of State designated and State owned highways in this State, and (2) for proposals to drill said right-of-ways upon considerations involving compensation in oil and/or gas and/or money whereby the State will receive a portion of the oil and/or gas after the same is produced or by way or advance royalties paid in money.

"Sec. 16c. The Board of Mineral Development is hereby expressly authorized to receive bids on all proposals provided for in Subsection 2 of Section 16b, and may accept any bid which it may deem to be to the best interests of the State or it may reject any and all bids. The Board shall advertise such proposals not less than fifteen (15) days before lease or sale date, as provided in Section 9 of Chapter 271, Acts of the Regular Session of the Forty-second Legislature.

"Sec. 16d. In the event the Board should deem it advisable to reject all bids, it may re-advertise for bids or may enter into contract for the drilling of such wells as it may deem advisable; provided, however, that any well or wells which may be drilled by order of the Board of Mineral Development shall be by contract let upon competitive bids to the lowest and best bidder for completed well, and provided further that any contractor drilling under contract with the Board of Mineral Development shall be required to carry workmen's compensation insurance on all employees engaged in such drilling operations.

"Sec. 16e. Said Board of Mineral Development is authorized to lease any right-of-way of State designated highways or other highways belonging to the State regardless of its distance from any well producing or capable of producing oil or gas in any quantity, but said Board of Mineral Development shall not contract for the development of such right-of-way under the provisions of Section 16d hereof, when such right-

of-way is more than one-half mile from a well producing or capable of producing oil or gas in paying quantities.

Sec. 16f. All leases and contracts in the development of such right-of-ways shall be executed on forms to be approved by the Attorney General and the Board of Mineral Development, and shall require the lessee or contracting party, or his or its successors or assigns, to use the highest degree of care and all proper safeguards to prevent the pollution of streams, and shall require that all surface equipment used in connection with the producing of said well, except the flow tank, shall be beneath the surface of the highway and protected by a concrete or iron cover sufficient to maintain a traffic load of 25,000 pounds.

"Sec. 16g. As to any and each lease and/or contract heretofore made by the Board of Mineral Development, such Board shall be, and it is hereby, authorized and empowered to revise the same, with the consent of the lessees and/or contracting parties thereunder, their heirs, successors or assigns, in such wise as to subject such lease and/or contract thenceforth to the public policy declared in Section 16f. Such revision shall be accomplished by supplemental or modificatory instrument on such terms as the Board of Mineral Development may deem fair and advantageous to this State, but only after a proposal for such revision shall be formally made, in a public document, to the said Board of Mineral Development, by the lessees and/or contracting parties under such lease and/or contract, their heirs, successors or assigns; and provided that in consideration of the consent by such lessees and/or contracting parties, their heirs, successors or assigns, to such revision the Board of Mineral Development shall not reduce the State's share of the oil and/or gas to be received in the future under such lease and/or contract to less than one-fourth of the gross production of oil and/or gas from the land described in such lease and/or contract.

"Provided that any revision made under this Act as referred to hereinabove shall contain in such supplemental or modificatory instrument the power and authority on the part of the Board of Mineral De-

velopment to reinstate any money requirement or reduced royalty requirement at any time that in the opinion of the Board such reinstatement should, in view of the then existing conditions and fairness to the State of Texas under the original lease or contract, be made; and the Board of Mineral Development shall exercise such power whenever in its opinion the interest of the State of Texas requires the exercise of such power; provided, further that said Board may modify said contract as aforesaid by adjusting up or down from time to time the State's portion or said oil and/or money payment as the conditions hereinbefore set forth may justify and which may be equitable to the State and to said contractors or their assigns, but in no event shall the State's portion be less than one-fourth nor more than now provided in said contracts, and in no event shall the Board of Mineral Development have any authority to modify or change said original leases as to gas. Provided, further that no revision made under this Act shall release the lessees or their assigns from the payment to the State for any oil and/or gas produced or the delivery to the State of any oil produced and due the State under the original contracts and produced prior to the effective execution of any revision hereunder.

"Provided further, that nothing in such revision shall in anywise relieve any lessee and/or contracting party from any obligation now existing to drill any well either as an offset or otherwise.

" 'And/or' as used in this Act shall mean and include both and either of the words 'and' and 'or.'

"Sec. 16h. This section is in no wise intended, or shall be held, to repeal or supersede Chapter 138, Acts of the Regular Session, Forty-first Legislature, which validated, relinquished, quit-claimed and granted to patentees and awardees and their assignees lands, and minerals therein contained, which lands are included in surveys lying across, or partly across State designated highways or other highways belonging to the State, and which have been patented or awarded as provided in said Chapter 138.

"Sec. 16i. All money collected under the provisions of this section by the Board of Mineral Development

shall be deposited in the State Treasury in the following manner: One-fourth thereof in the Available School Fund, one-fourth thereof to the Texas Old Age Assistance Fund which shall be kept separate and apart from the General Revenue Fund; and one-half thereof to the General Revenue Fund of the State of Texas.

"Sec. 16j. In the event that the State does not own the right-of-way, but only an easement thereon, then the State may lease or contract as herein provided for the mineral development of such right-of-way and reserve to itself one-half of all the money derived by the State, the remaining one-half going to the grantor of the easement to the State. In no event, however, shall the Board of Mineral Development enter into any contract to lease any lands without reserving to the State at least a one-eighth interest or royalty therein.

"Sec. 16k. The venue of any suit arising out of this Act, either by or against said Board, or of whatever kind or nature, is hereby fixed in Travis County.

"Sec. 16l. No injunction shall be granted against the Board, or its agents, or parties under contract with it, to restrain it from enforcing its orders, or contracts, or carrying out any development entered into or contemplated by it under this Act except after notice to the Board and its agents or parties with whom it contracted or contemplated contracting, and a hearing is held thereon. Before any injunction or restraining order is issued or becomes effective against the Board or any of the parties named in the foregoing sentence the complaining party or parties shall be required by the court to give bond with good and sufficient sureties in an amount to be fixed by the court which amount shall be sufficient to protect the State from loss by reason of drainage of the right-of-way in question or by reason of loss of lease or bonus, consideration, or loss from any other reason whatsoever. The court in considering the amount of the bond shall take into consideration the probable and possible loss to the State by reason of granting of any such injunction. Such bond shall be made payable to the then Governor of the State of Texas and his suc-

cessors in office, and recovery for loss to the State occasioned by said action may be had in a suit on such bond brought by the Attorney General. Any bond made or executed by any bonding or surety company as surety shall be by some bonding or surety company authorized to do business in Texas.

"Sec. 16m. Either party to said suit has the right of appeal from the final judgment therein and said appeal shall at once be returnable to the Appellate Court and said action so appealed shall have precedence in said Appellate Court over all cases, proceedings and causes of a different character therein pending. In the Court of Civil Appeals such court shall immediately and at as early a date as possible decide the questions involved therein; and in the event any question or questions shall be certified to the Supreme Court, or writ of error thereto be requested or granted, it is here made the duty of the Supreme Court to immediately set down said cause for hearing and decide the cause at as early a date as possible, and such cause shall have precedence over all other cases, proceedings and causes of a different character in such court. All laws and parts of laws in conflict with the provisions of this section are hereby repealed.

"Sec. 16n. The Board, or any person or corporation holding a contract with said Board, including all leaseholders or assignees holding a lease contract with the State or under the State Land Commissioner prior to the enactment of Acts 1931, Forty-second Legislature, Second Called Session, page 64, Chapter 40, or what is commonly known as the River Bed or Board of Mineral Development Law, for the development of oil and/or gas resources, in State-owned highway right-of-ways, is hereby granted the right of eminent domain and condemnation as provided by the General Laws of the State of Texas for the following purposes:

"(1) Of securing such additional adjoining lands as may be necessary for the erection of power machinery and construction of storage tanks and slush pits in the operation of said highway development, and to prevent or lessen the dangers of traffic accidents involved in the

drilling of any well or operation thereof on such highways.

"Provided, that at any time hereafter, in all cases, where the landowner and/or other interested parties and the leaseholder to said highway right-of-way and/or Board are unable to agree on the measure of damages, if any, and it is necessary to resort to condemnation proceedings, that in the event it should become necessary for any offset well to be drilled by said landowner or other interested party within the area or surface of the land taken, condemned or thus sought to be condemned, the mineral rights of the condemned party shall at all times be superior to the surface rights of the condemning party, and in the event of any conflict on account of the drilling of any offset well or wells, under and by virtue of a permit from the Railroad Commission, the condemning party shall be compelled to move any interference or hindrance whatsoever therewith, or to go around such offset well, and in the event of his failure or refusal to immediately move any such interfering object or hindrance, upon demand, the owner of the mineral rights shall have the right to immediately do so himself without any liability.

"It is the intent of this Act that the mineral rights of the owner shall at all times be superior to the surface rights of the condemning party, and in determining the measure of damages, if any, in such condemnation proceeding, the Commissioners, or other tribunal shall not take into consideration the value of the oil or gas lying under said right-of-way of such condemned properties, and this Act, as amended, which same is remedial only, shall apply to all cases or proceedings now pending."

Read.

Pending.

#### Message From the House.

The Chair recognized the Doorkeeper who introduced a messenger from the House with the following message:

Hall of the House of Representatives,  
Austin, Texas, Oct. 20, 1936.  
Hon. Walter F. Woodul, President  
of the Senate.  
Sir: I am directed by the House

to inform the Senate that the House has passed the following bill:

H. B. No. 48, A bill to be entitled "An Act amending and re-enacting Subsection 5 of Section 1, Chapter 10, Acts of First Called Session of the Forty-third Legislature relative to the taxes levied on the pari-mutuel wagering system, etc., and declaring an emergency."

Respectfully submitted,

A. C. DUNN,

Acting Chief Clerk, House of  
Representatives.

#### Motion to Table.

Senator Shivers moved to table the Hill amendment.

The motion was lost by the following vote:

Yeas—13.

|           |             |
|-----------|-------------|
| Davis.    | Redditt.    |
| DeBerry.  | Sanderford. |
| Hornsby.  | Shivers.    |
| Moore.    | Small.      |
| Neal.     | Stone.      |
| Oneal.    | Weinert.    |
| Rawlings. |             |

Nays—15.

|           |             |
|-----------|-------------|
| Beck.     | Nelson.     |
| Blackert. | Pace.       |
| Burns.    | Poage.      |
| Collie.   | Sulak.      |
| Cotten.   | Van Zandt.  |
| Hill.     | Westerfeld. |
| Holbrook. | Woodruff.   |
| Isbell.   |             |

Absent—Excused.

|         |        |
|---------|--------|
| Martin. | Regan. |
|---------|--------|

The amendment was adopted by the following vote:

Yeas—15.

|           |             |
|-----------|-------------|
| Beck.     | Nelson.     |
| Blackert. | Pace.       |
| Burns.    | Poage.      |
| Collie.   | Sulak.      |
| Cotten.   | Van Zandt.  |
| Hill.     | Westerfeld. |
| Holbrook. | Woodruff.   |
| Isbell.   |             |

Nays—13.

|          |           |
|----------|-----------|
| Davis.   | Neal.     |
| DeBerry. | Oneal.    |
| Hornsby. | Rawlings. |
| Moore.   | Redditt.  |

Sanderford. Stone.  
Shivers. Weinert.  
Small.

Absent—Excused.

Martin. Regan.

Amendment No. 48.

By Senator Small:

Amend H. B. No. 8, by striking out Section 12 and adding in lieu thereof the following:

Section 12. That Section 3, Chapter 73, Acts of the 42nd Legislature, be and the same is hereby amended so as to read as follows:

"Section 3. A tax shall be paid by each such producer on the amount of gas produced and saved within this State, and on gas imported into the State, upon the first sale thereof in intrastate commerce upon the following basis:

"A tax equivalent to three per cent (3%) of the market value of the total amount of gas produced and saved within this State, or sold, if imported into this State, at the actual market value thereof, as and when produced.

"A tax hereby levied shall be a liability of the producer of gas and it shall be the duty of such producer to keep accurate records of all gas produced, making monthly reports under oath as hereinafter provided.

"The purchaser of gas shall pay the tax on all gas purchased and deduct tax so paid from payment due producer or other interest holder, making such payments so deducted to the Comptroller of Public Accounts by legal tender or cashier's check payable to the State Treasury.

"Provided, that if gas produced is not sold during the month in which produced, then said producer shall pay the tax at the same rate and in the manner as if said gas were sold.

"The tax herein levied shall be paid monthly on the 25th day of each month on all gas produced during the month next preceding by the purchaser or the producer as the case may be, but in no event shall a producer be relieved of responsibility for the tax until same shall have been paid; and provided, in event the amount of the tax herein levied shall be withheld by a purchaser from payments due a producer and said purchaser fails to make payment of the tax to the State as pro-

vided herein, the producer may bring legal action against such purchaser to recover the amount of tax so withheld, together with penalties and interest which may have accrued by failure to make payments and shall be entitled to reasonable attorney fees and court costs incurred by such legal action."

#### Previous Question.

Senator Rawlings moved the previous question on the amendment and the passage of the bill to engrossment.

The motion was duly seconded.

The previous question was ordered by the following vote:

#### Yeas—19.

|           |             |
|-----------|-------------|
| Blackert. | Oneal.      |
| Burns.    | Pace.       |
| Davis.    | Rawlings.   |
| DeBerry.  | Sanderford. |
| Hill.     | Shivers.    |
| Holbrook. | Small.      |
| Isbell.   | Stone.      |
| Moore.    | Van Zandt.  |
| Neal.     | Weinert.    |
| Nelson.   |             |

#### Nays—8.

|          |             |
|----------|-------------|
| Collie.  | Redditt.    |
| Cotten.  | Sulak.      |
| Hornsby. | Westerfeld. |
| Poage.   | Woodruff.   |

#### Absent—Excused.

|         |        |
|---------|--------|
| Beck.   | Regan. |
| Martin. |        |

The amendment was adopted by a viva voce vote.

H. B. No. 8, as amended, was read second time and passed to third reading by a viva voce vote.

On motion of Senator Van Zandt the constitutional rule requiring bills to be read on three several days was suspended by the following vote:

#### Yeas—29.

|           |           |
|-----------|-----------|
| Beck.     | Hornsby.  |
| Blackert. | Isbell.   |
| Burns.    | Moore.    |
| Collie.   | Neal.     |
| Cotten.   | Nelson.   |
| Davis.    | Oneal.    |
| DeBerry.  | Pace.     |
| Hill.     | Poage.    |
| Holbrook. | Rawlings. |

|             |             |
|-------------|-------------|
| Redditt.    | Sulak.      |
| Regan.      | Van Zandt.  |
| Sanderford. | Weinert.    |
| Shivers.    | Westerfeld. |
| Small.      | Woodruff.   |
| Stone.      |             |

Absent—Excused.

Martin.

Read third time.

Amendment No. 49.

By Senator Poage:

Amend H. B. No. 8, by striking out everything below the enacting clause and inserting the following:

Section 1. That on and after January 1st, 1937, no state ad valorem tax shall be levied or collected for the benefit of the general revenue fund or for the benefit of the available free school fund, and on and after such date no ad valorem tax shall be levied or collected for state purposes, save and except a tax of seven cents (\$.07) on the one hundred dollars for the payment of Confederate pensions as heretofore provided by law; provided, however, that nothing herein shall be construed so as to prohibit the collection of any taxes that may have accrued prior to the first day of January, 1937, but all such taxes shall be and remain valid obligations collectible as now provided by law.

Sec. 2. Section 1 of Chapter 213, Acts of the 42nd Legislature, page 355, and Chapter 162, page 409 of the Acts of the 43rd Legislature, as amended by Chapter 12, page 43 of the Acts of the First Called Session of the 43rd Legislature, and Chapter 73, page 111, of the Acts of the 42nd Legislature be and the same are all hereby amended so as to read as follows:

That on and after the first day of January, 1937 every person or persons, corportion, partnership, individual, trustee, receiver, trust estate, executor, and/or administrator owning, controlling, managing, leasing, and/or operating any mine, well, shaft, or other device whereby oil, and or sulphur and or gas is produced in any manner from the earth or waters in this State shall make monthly, on the 25th day of each and every calendar month of each year, a report to the State Comptroller of Public Accounts on such forms as the Comptroller shall prescribe, and

sworn by such person before an officer authorized to administer oaths in the State, or if such person be other than a natural person, sworn to by its president, secretary or other duly authorized officer, which report shall show the total amount of oil, sulphur and gas produced within this State by said person during the calendar month next preceding, and at the time of making such report shall pay to the Treasurer of this State as an occupation tax for the month covered by said report, an amount equal to the highest total tax levied by Section 3 of this Act.

Sec. 3. There is hereby levied an occupation tax on all producers, as such term is hereinafter defined, of five cents (\$.05) per barrel for each barrel of forty-two (42) standard gallons of oil produced from any marginal well, as said term is defined in Chapter 58, page 92 of the Acts of the 42nd Legislature, as amended by Chapter 97, page 215, Acts of the 43rd Legislature, and a tax of ten cents (\$.10) per barrel for each barrel of forty-two (42) standard gallons of oil produced from any well in this State other than a marginal well, from which oil is produced by any method of pumping, and a tax of ten cents (\$.10) per barrel for each barrel of forty-two (42) standard gallons of oil produced from any flowing oil well in this State producing less than one hundred (100) barrels of oil per day; and a tax of fifteen cents (\$.15) per barrel for each barrel of forty-two (42) standard gallons of oil produced from any flowing well within this State producing more than one hundred (100) barrels of oil per day; and a tax of ten cents (\$.10) per barrel for each barrel of forty-two (42) standard gallons of oil imported into this State and thereafter sold in intrastate commerce in this State, and in case of such sale, the party making the first sale in intrastate commerce in this State shall be deemed to be the producer of such oil; and a tax of two dollars (\$2.00) per ton for each long ton of twenty-two hundred (2200) pounds of sulphur produced within this State, and a tax of two-tenths of one cent (\$.002) per thousand cubic feet of sour gas produced within this State; and a tax of one-half of one cent (\$.005) per thousand cubic feet for each thou-

sand cubic feet of sweet gas produced within this State; and a tax of one-half of one cent (\$.005) per thousand cubic feet for each thousand cubic feet of gas of any kind imported into this State and thereafter sold in intrastate commerce in this State; and in case of such sale, the party making the first sale in intrastate commerce within this State shall be deemed to be the producer of such gas.

Said tax shall be computed upon the total barrels of oil and/or tons of sulphur, and/or cubic feet of gas produced and/or salvaged from the earth and/or waters of this State and/or imported into and sold in intrastate commerce in this State, without any deductions, and all such weights and measures shall be based on the standards established by the United States Bureau of Standards, and shall be corrected both for temperature and atmospheric pressure. It is provided, however, that the occupation tax herein levied on oil and/or sulphur and/or gas shall be an amount equal to ten per cent (10%) of the market value of all oil except oil produced from a marginal well whenever the market value thereof is in excess of one dollar (\$1.00) per barrel, and shall be an amount equal to ten per cent (10%) of the market value of all sulphur whenever the market value thereof is in excess of twenty dollars (\$20.00) per ton, and shall be an amount equal to ten per cent (10%) of the market value of all gas whenever the market value thereof is in excess of five cents (\$.05) per thousand cubic feet. Save and except, however, that in no event shall the occupation tax herein levied on oil produced from a flowing oil well within this State producing more than one hundred (100) barrels of oil per day ever be less than fifteen cents (\$.15) per barrel.

Sec. 4. The market value of oil, sulphur and gas, as that term is herein used, shall be the actual market value thereof, plus any bonus or premium, or other thing of value paid therefor, or which oil and/or sulphur and/or gas does or will reasonably bring, if produced in accordance with the laws, rules and regulations of the State of Texas.

Sec. 5. It shall be the duty of such producers to keep accurate records of all such minerals produced,

6—Jour.

making monthly reports under oath, as hereinbefore provided. The purchasers of such minerals shall pay the taxes afore-described on all such minerals purchased and deduct the tax so paid from the payment due the producer or other interest holder, remitting such payments so deducted to the Comptroller of Public Accounts in legal tender or cashier's check payable to the Treasurer of this State, and when such purchaser shall have made such remittance and payment, the producer of such minerals shall be relieved of paying the tax set out in Section 3 hereof and in this section levied to the extent of such payments, but no further, and it shall be the duty of such producer to secure from such purchaser a receipt from the Comptroller of Public Accounts for all of such payments and to attach same to the monthly report required in Section 2 hereof, and such purchaser shall be entitled to no greater deduction in said tax than the amount evidenced by such receipts so attached. Provided further that if any sulphur and/or oil and/or gas produced is not sold within the calendar month in which it may be produced, then the producer thereof shall pay the entire tax thereon at the same rate and in the same manner as if such minerals had been sold; provided further that unless such payment of tax on all of the aforementioned minerals produced during any month or fractional part thereof shall have been made on or before the 25th day of the month immediately following such payment, shall become delinquent and a penalty of ten per cent (10%) of the amount of the tax shall be added, and such tax and penalty shall bear interest at the rate of six per cent (6%) per annum from the date due until paid.

Sec. 6. The tax hereby levied is an occupation tax on the occupation of producing oil and/or sulphur and/or gas, and shall be borne by the producer of such minerals, and no part thereof shall be deducted from any royalty payments otherwise due by any producer within this State, but any purchaser of the minerals hereinafter named is hereby authorized to withhold, from any payment due said producer, any unpaid tax.

Sec. 7. Producers and/or purchasers of the aforementioned min-



erals shall keep in Texas, upon forms furnished by the Comptroller, a complete record of all such minerals produced and a record of all such minerals sold; reports shall be filed with the Comptroller monthly by producers and purchasers, not later than the 25th of each calendar month, showing the amount of minerals produced and the amount of minerals sold during the month preceding.

Sec. 8. All railroads, barges, trucks and/or pipe lines, carrying or transporting such minerals for hire, for themselves or their owners shall keep in Texas a complete and accurate record of all minerals so handled by months, showing date received, number of tons, barrels, and cubic feet, by whom received, point of delivery, to whom delivered, and manner of transportation, and such records shall be open to the inspection of the duly authorized agents of the Comptroller or the Attorney General at all times, and, if so requested by the Comptroller, shall furnish information and reports of movements as often as required by the Comptroller.

Sec. 9. Purchasers buying any such minerals from properties in litigation or in receivership, bankruptcy, or any other legal proceedings, or covered by assignments, are required to deduct the amount of the taxes levied by this Act, before payment is made to the producers, trustees, assignees or to any person who claims ownership of said funds, or before the proceeds of said purchase of any such minerals is impounded or escrowed by said purchaser pending such litigation or tenure of assignments, and shall remit said tax deducted in the same manner as if said minerals had been purchased from any other source; and providing that said purchaser shall not be liable to any claimant of said funds on account of payment of said tax.

Sec. 10. Monthly reports by producers shall be filed with the Comptroller upon such forms as may be designated by that official, showing the total number of tons, barrels and cubic feet of any such minerals produced monthly, the name of the county from which produced, the name of the lease from which produced, the disposition made of such minerals if sold, the name and cor-

rect address of the purchaser, and if not sold, the location of storage, if owned by such operator, or if stored with a pipe line or a refinery, the correct name and address of such pipe line or refinery. All reports so made shall be duly sworn to by the producer or his authorized agent.

Sec. 11. Purchasers of any such minerals shall accompany the remittance for taxes deducted from settlements as provided herein, with a statement or report in a form to be prescribed by the Comptroller, showing complete information requested in such form, including name and address of producer from whom such minerals were purchased; name of the county from which such minerals were produced; name of the lease and the total amount purchased.

Sec. 12. For the occupation tax, penalties and interest herein provided for, the State shall have a prior and preferred lien on any leasehold interest, ownership of the mineral rights, or interest, including minerals produced and/or run, owned by the person owing any tax thereon; and in addition thereto such lien shall include equipment, tools, tanks, and all other implements used on said lease and/or premises from which such minerals are produced.

Sec. 13. It shall be the duty of the Attorney General to bring legal action for the collection of delinquent taxes herein levied, and any suit instituted for such purpose shall attach to any such minerals in storage, in transit, or being produced by such operator, and venue for such suits herein provided shall be in the District Court of Travis County, Texas.

Sec. 14. It shall be the duty of the Comptroller to promulgate rules and regulations governing the detailed administration of the terms and requirements of this Act not specifically mentioned herein; to employ auditors or tax supervisors for the purpose of verifying reports and investigating the affairs of producers and/or purchasers to determine whether the tax is being properly reported and paid; to provide the necessary office help and equipment for the proper execution of the provisions of this Act, and for the purpose of defraying the necessary expense of said administration, including salaries of supervisors, auditors, office help, filing equipment,

typewriters and supplies, printing of forms, publication of regulations, postage, telephone and telegraph, traveling expenses of employees, and traveling expenses of witnesses not otherwise paid; and all of the sums heretofore appropriated for the fiscal years beginning on September 1, 1936, and September 1, 1937, for the enforcement of the present occupation tax on the production of sulphur, and the present occupation tax on the production of oil, and the present occupation tax on the production of natural gas, are hereby re-appropriated for the purpose of enforcing the provisions of this Act, provided that no salaries shall be paid out of said re-appropriated funds in excess of the amount of the salaries heretofore provided.

Sec. 15. For the purposes of this Act the term

(1) "Producer" shall mean any person or persons, corporation, partnership, individual, trustee, receiver, trustee estate, executor or administrator owning, controlling, managing, leasing or operating any mine and/or well in this State from which is produced oil and/or sulphur and/or gas by taking it from the earth or waters in this State, and shall likewise include any person who first sells in intrastate commerce any oil, sulphur or gas theretofore imported in to this State.

(2) "Carrier" shall mean the operator or owner of any means of transporting any oil, sulphur or gas or any instrumentality that may now be used or come into use for the purpose of effecting such transportation.

(3) "Purchaser" shall mean any individual, person or persons, partnership, corporation, refinery, pipe line or agent purchasing any crude oil, and/or sulphur and/or gas for any purpose or use within this State.

(4) "Oil" as used herein shall mean petroleum oil, mineral oil, or other oil taken from the earth.

(5) "Sulphur" as used herein shall mean any sulphur, whether in liquid, molten or solid state, produced or taken from the earth or waters of the earth.

(6) "Gas" and "Natural Gas" as such terms are used herein shall mean and include any and all inflammable gases produced or taken from the earth or from any strata under the earth.

(7) "Reports" shall mean any reports required to be furnished in this Act or that may be required by the Comptroller in the administration of this Act.

(8) "Person" shall mean and include any person, firm, concern, receiver, trustee, executor, administrator, agent, institution, association, partnership, company, corporation, and persons acting under declarations of trust as well as the trustees acting under such declarations of trust.

(9) "Comptroller" shall mean Comptroller of Public Accounts of the State of Texas.

(10) "Minerals" shall mean and include oil, sulphur and natural gas.

Sec. 16. The taxes herein imposed and provided, when paid shall be and are hereby allocated as follows, to-wit:

All of the receipts from such tax shall be divided into three equal parts as same are collected. One part shall be deposited to the credit of the Available Free School Fund of this State; one part shall be deposited, as collected, to the credit of the General Revenue Fund of this State, and one part shall be deposited, as collected, to the credit of the Old Age Assistance Fund of this State.

Sec. 17. It is expressly declared to be the legislative intent that the several sections and sub-sections of this Act are severable and should any section or sub-section of this Act be declared to be unconstitutional, it shall not effect the remaining provisions of this Act and the Legislature would have enacted such remaining provisions nevertheless, and all remaining sections and sub-sections shall remain in full force and effect, save that it is further expressly provided that in event any of the tax hereby levied should for any reason be declared to be unconstitutional or void, then and in that event, it is the legislative intent that none of the statutes mentioned in Section 2 hereof would have been repealed, and the Legislature enacts this bill with the intention that, should any tax hereby levied be hereafter declared unconstitutional or void for any reason, the repeal provisions of Section 2 of this Act shall likewise be null and void.

Sec. 18. The fact that the present ad valorem tax system is unfair and

unduly burdensome, and the further fact that the State is in pressing need of new revenues for the support of the general functions of State government, for the maintenance of schools, and particularly for the payment of Old Age Pensions, create an emergency and an imperative public necessity requiring that the constitutional rules requiring bills to be read on three several days in each House be suspended, and that this bill take effect from and after its passage, and said rules are hereby suspended, and it is so enacted.

Read.  
Pending.

#### Previous Question.

Senator Pace moved that the Senate order the previous question on the amendment and the passage to third reading of the bill.

The motion was duly seconded.

The previous question was ordered by the following vote:

#### Yeas—22.

|           |             |
|-----------|-------------|
| Beck.     | Oneal.      |
| Blackert. | Pace.       |
| Burns.    | Rawlings.   |
| Cotten.   | Redditt.    |
| Davis.    | Sanderford. |
| DeBerry.  | Shivers.    |
| Holbrook. | Small.      |
| Hornsby.  | Stone.      |
| Moore.    | Van Zandt.  |
| Neal.     | Weinert.    |
| Nelson.   | Westerfeld. |

#### Nays—7.

|         |           |
|---------|-----------|
| Collie. | Regan.    |
| Hill.   | Sulak.    |
| Isbell. | Woodruff. |
| Poage.  |           |

#### Absent—Excused.

Martin.

The amendment failed of adoption by the following vote:

#### Yeas—11.

|         |             |
|---------|-------------|
| Beck.   | Poage.      |
| Collie. | Sanderford. |
| Cotten. | Sulak.      |
| Hill.   | Westerfeld. |
| Isbell. | Woodruff.   |
| Pace.   |             |

#### Nays—18.

|           |            |
|-----------|------------|
| Blackert. | Oneal.     |
| Burns.    | Rawlings.  |
| Davis.    | Redditt.   |
| DeBerry.  | Regan.     |
| Holbrook. | Shivers.   |
| Hornsby.  | Small.     |
| Moore.    | Stone.     |
| Neal.     | Van Zandt. |
| Nelson.   | Weinert.   |

#### Absent—Excused.

Martin.

H. B. No. 8, with amendments, was finally passed by the following vote:

#### Yeas—24.

|           |             |
|-----------|-------------|
| Beck.     | Oneal.      |
| Blackert. | Pace.       |
| Collie.   | Poage.      |
| Davis.    | Rawlings.   |
| DeBerry.  | Redditt.    |
| Hill.     | Regan.      |
| Holbrook. | Sanderford. |
| Hornsby.  | Shivers.    |
| Isbell.   | Small.      |
| Moore.    | Stone.      |
| Neal.     | Weinert.    |
| Nelson.   | Woodruff.   |

#### Nays—5.

|         |             |
|---------|-------------|
| Burns.  | Van Zandt.  |
| Cotten. | Westerfeld. |
| Sulak.  |             |

#### Absent—Excused.

Martin.

#### Reasons for Vote.

I am voting against this bill because the provisions of said bill requires persons to be a pauper before they can qualify under its provisions and receive assistance.

BURNS.

I am voting against this bill because the provisions with reference to Old Age Assistance requires persons to be paupers before they can qualify under its provisions and receive assistance.

I do not think the people of Texas intended that old people would be required to take a pauper's oath to receive assistance when they voted for the Old Age Assistance amendment. I certainly did not so intend when I voted for this amendment.

COTTEN.

**House Bill No. 32.**

The Chair laid before the Senate on its first reading the following bill:

By Mr. Quinn:

H. B. No. 32, A bill to be entitled "An Act defining certain words, terms and phrases for the purposes hereof; providing and imposing an occupation tax on the first sale distribution or use of carbon black in this State; providing certain exceptions; requiring distributors of carbon black to obtain a permit and file with the Comptroller of Public Accounts a surety bond or in lieu of bond to deposit in a suspense account in the State Treasury an amount of money equal to the amount of bonds required; regulating the issuance of such permits and providing for the suspension and revocation of permits issued; etc., and declaring an emergency."

Read and referred to the Committee on State Affairs.

**S. C. R. No. 14.**

Senator Poage received unanimous consent to introduce S. C. R. No. 14 at this time.

The Chair laid before the Senate on its first reading the following:

By Senator Poage:

S. C. R. No. 14, Authorizing the State Highway Department to lend to City of Waco and/or McLennan County certain highway equipment.

Senator Poage moved to suspend the rule requiring resolutions be referred to a committee.

Motion prevailed by a viva voce vote.

S. C. R. No. 14 was adopted.

**Adjournment.**

Senator Rawlings moved that the Senate adjourn until Thursday at 10 o'clock a. m.

Senator Van Zandt moved that the Senate adjourn until 10 o'clock a. m., Wednesday.

Senator Rawlings withdrew his motion.

Senator Van Zandt's motion to adjourn until 10 o'clock a. m. on Wednesday prevailed.

**APPENDIX.****Committee Reports.**

Committee Room,  
Austin, Texas, Oct. 20, 1936.

Hon. Walter F. Woodul, President of the Senate.

Sir: We your Committee on Civil Jurisprudence, to whom was referred

S. B. No. 12, A bill to be entitled "An Act defining certain words, terms and phrases: fixing venue for injunctions to restrain State officials from the performance of their duties, in Travis County, Texas."

Have had the same under consideration and I am instructed to report it back to the Senate with the recommendation that it do pass, and be printed in the Journal.

SMALL, Chairman.

By Poage.

S. B. No. 12.

A Bill

To Be Entitled

An Act defining certain words, terms and phrases; fixing venue for injunctions to restrain State officials from the performance of their duties, in Travis County, Texas; providing that before any restraining order or injunction shall be issued to restrain the collection of certain special taxes, fees and penalties, the applicant therefor shall pay into the suspense account of the Treasurer all taxes, fees and penalties then due and thereafter becoming due during the pendency of said injunction; requiring applicant for injunction to keep certain records and file certain reports and describing the records to be kept and detailing the information required in the reports; providing that the injunction or restraining order shall be dismissed or dissolved after hearing for failure to comply with the provisions of this Act or for the violation of the same and providing for the manner and time of said hearing and the service of notice; providing that any State official authorized to enforce the collection of tax involved in said injunction may file affidavit of such violations with the Court; providing for the disposition of such funds paid into the suspense account of the Treasurer after

final judgment; prohibiting any person not a party to an injunction from receiving benefits therefrom; providing that if any part of this Act should be held invalid or unconstitutional such decision shall not affect the remaining portions of this Act; providing that this Act in the enforcement of its provisions shall apply and control all other laws or parts of laws in this State, and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section. 1. The following words, terms and phrases as used herein-after in this Act are hereby defined as follows:

(a) "Person" shall mean and include every individual, firm, association, joint stock company, syndicate, co-partnership, corporation, trustee, agency or receiver.

(b) "Attorney General" shall mean the Attorney General of the State of Texas or his duly authorized assistants and employees.

(c) "Treasurer" shall mean the State Treasurer of Texas or his duly authorized assistants and employees.

(d) "State Official" shall be construed to mean every State official holding office in this State who has been duly elected and qualified to such office under the election laws of this State or who has been duly appointed to such office under the laws of this State. Provided that the term "State Official" shall apply only to State officials whose administrative and enforcement authority extends to and includes the entire State and all political subdivisions thereof.

Sec. 2. Any person who shall invoke the power and remedies of injunction against any State official to restrain or enjoin him from enforcement of his official duties upon any ground for which an injunction may be issued, shall file such proceedings in a court of competent jurisdiction in Travis County, Texas, and venue for such injunctions is hereby declared to be in Travis County, Texas.

Sec. 3. Before any restraining order or injunction shall be granted in this State to restrain or enjoin the collection of any excise tax, occupation tax, sales tax, severance tax, gross receipts tax, gross production tax, license or permit tax, and registration or filing fee or any

statutory penalties assessed for failure to pay any of such taxes and before any restraining order or injunction shall be granted against any State officials in this State to restrain or enjoin the collection of any of the foregoing taxes, fees and penalties, the applicant therefor shall pay into the suspense account of the State Treasurer all taxes, fees and penalties then due by him to the State and the application for restraining order or injunction shall reflect said fact of payment under oath of the applicant, his agent or attorney. Provided that said applicant shall keep for the inspection at all times of the Attorney General of this State and all other State officials authorized to enforce the collection of such taxes, fees and penalties, a well bound book record of all taxes accruing during the pendency of such restraining order or injunction. Such book record shall include a record of purchases, receipts and sales or other disposition of all products, materials or articles upon which such taxes are levied or by which the amount of such taxes are measured. Provided further, that said applicant shall make and file with the State official authorized to enforce the collection of the tax involved, daily, excluding Sundays and legal holidays, a report on a form or forms to be prescribed by said State official showing the daily accruals of the tax involved together with total purchases, receipts, sales and other disposition of all products, materials and articles on which the tax involved in such injunction is levied or by which such tax is measured. Such report shall also show the name and address of all persons from whom such products, materials and articles were purchased or received and the name and complete address of all persons to whom such products, materials and articles were sold or distributed. If payment of the tax involved is evidenced or measured by the sale or use of stamps or tickets, a complete record of all such stamps and tickets used, sold or handled shall be kept and shall be included in said report. Said application and temporary injunction or restraining order shall be immediately dismissed and dissolved after hearing, if said applicant fails, at any time before the case shall have been finally disposed

of by the court of last resort, to keep the records or make and file the reports required herein or to pay daily, excluding Sundays and legal holidays, into the suspense account of the Treasurer of Texas all taxes, fees and penalties involved in said litigation, thereafter becoming due, and such payments shall be made before said taxes, fees and/or penalties become delinquent.

Any State official authorized to enforce the collection of the tax involved, or his authorized representatives, may file in the Court granting such injunction an affidavit that said applicant has failed to comply with the provisions of this Act or has violated the same. Upon the filing of said affidavit, the Clerk of said Court shall issue notice to the said applicant to appear before such Court upon the date named therein, which shall be within five (5) days from service of such notice or as soon thereafter as the Court can hear the same, to show cause why such injunction should not be dismissed, which notice shall be served by the sheriff of the county in which applicant resides or any other peace officer in this State.

Sec. 4. In the event the injunction is finally dissolved or dismissed all taxes, fees, penalties, or other funds paid into the suspense account under the provisions of this Act shall be paid to the funds to which such taxes, fees and penalties are allocated. If the final judgment maintains the right of applicant to a permanent injunction to prevent the collection of such taxes, the funds so deposited shall be refunded by the Treasurer to said applicant.

Sec. 5. No person owing or required to pay any of the taxes named herein to the State may receive or take advantage of any benefit of any restraining order or injunction against any State official of this State, with reference to the collection of any tax, fee or penalty owed the State except such person as may have applied for said injunction. All other persons not securing an injunction shall pay to the proper State official all taxes, fees and penalties due by him under the laws of this State and said restraining order or injunction shall, in no way, interfere with or impair the power of any State officials of this State to collect and enforce the payment of

taxes, fees and penalties involved in any litigation from taxpayers not parties to the restraining order or injunction. Provided further, that no court shall entertain or hear any restraining order or injunction nor shall any restraining order or injunction be granted in behalf of any class or group unless and until each and every member of such class and/or group shall have been made a party to the cause of action.

Sec. 6. If any article, section, subsection, sentence, clause or phrase of this Act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this Act. The Legislature hereby declares that it would have passed this Act and each section, subsection, sentence, clause and phrase thereof irrespective of the fact that any one or more of the sections, subsections, sentences, clauses or phrases should be declared unconstitutional. Provided further, that if any part of this Act should conflict with any other laws or parts of laws in this State, then this Act shall apply and control in the enforcement of its provisions over all other laws or parts of laws.

Sec. 7. The fact that the State has lost several hundred thousand dollars through injunctions restraining the collection of taxes later held valid by the Supreme Court of this State and the fact that at the present time restraining orders and injunctions may be secured against the collections of the taxes, fees and penalties named in this Act without proper and adequate security to the State to protect it from losses incurring by reason of such injunctions create an emergency and an imperative public necessity that the constitutional rule requiring that bills be read on three separate days in each House be suspended, and the same is hereby suspended, and this Act shall be in force and effect from and after its passage and it is so enacted.

(Telegram.)

The Chair placed before the Senate the following invitation:

Victoria, Texas, Oct. 20, 1936.  
Hon. Walter F. Woodul,  
Lieutenant Governor of Texas,  
The State Senate,  
Austin, Texas.

Our committee extends the entire

membership of the Senate and Bob Barker a most cordial invitation to attend Victoria's Texas Centennial celebration on Wednesday, October 28th, and be our guests at an old fashioned Texas barbecue.

LEOPOLD MORRIS,  
Chairman.

#### FOURTEENTH DAY.

Senate Chamber,  
Austin, Texas,  
October 21, 1936.

The Senate met at 10 o'clock a. m., pursuant to adjournment, and was called to order by Lieutenant Governor Walter F. Woodul.

The roll call disclosed a quorum, the following Senators being present:

|           |             |
|-----------|-------------|
| Beck.     | Pace.       |
| Blackert. | Poage.      |
| Burns.    | Rawlings.   |
| Collie.   | Redditt.    |
| Cotten.   | Regan.      |
| Davis.    | Sanderford. |
| DeBerry.  | Shivers.    |
| Hill.     | Small.      |
| Holbrook. | Stone.      |
| Hornsby.  | Sulak.      |
| Isbell.   | Van Zandt.  |
| Moore.    | Weinert.    |
| Neal.     | Westerfeld. |
| Nelson.   | Woodruff.   |
| Oneal.    |             |

Absent—Excused.

Martin.

Prayer by the Chaplain, Rev. B. W. Allen.

Pending the reading of the Journal of yesterday, the same was dispensed with on motion of Senator Hill.

#### Petitions and Memorials.

(See Appendix.)

#### Committee Reports.

(See Appendix.)

#### Bills and Resolutions.

##### Senate Resolution No. 20.

By Senator Hornsby:

Whereas, The Senate of Texas has received an invitation to visit the University Centennial Exposition on Thursday evening, October 22, 1936,

and to inspect the museum materials and exhibits which are being assembled in preparation for the Texas Memorial Museum; and

Whereas, This is an enterprise of state-wide significance and importance to which the Legislature has given its full support; now, therefore, be it

Resolved, That the Senate accept the invitation to visit the temporary exhibits which are being displayed on the campus of the University.

Read and adopted.

##### House Bill No. 48.

The Chair laid before the Senate on its first reading the following bill:

By Mr. Russell:

H. B. No. 48, A bill to be entitled "An Act amending and re-enacting Subsection 5 of Section 1, Chapter 10, Acts of the First Called Session of the Forty-third Legislature relative to the taxes levied on the parimutuel wagering system, etc., and declaring an emergency."

Read and referred to the Committee on State Affairs.

##### Senate Bill No. 13.

By Senator Redditt:

S. B. No. 13, A bill to be entitled, "An Act to validate, ratify, approve, confirm and declare enforceable all levies and assessments of ad valorem taxes heretofore made by incorporated cities and towns in this State which are unenforceable because same were made and adopted by resolution, motion or other informal action, and because of the failure of the governing body of such city or town to appoint the proper and statutory board of equalization; and which are insufficient and unenforceable on account of technical irregularities in the manner of preparing the books and reports of the assessors assessing such property; etc., and declaring an emergency."

Read and referred to the Committee on State Affairs.

##### Senate Bill No. 14.

By Senator Holbrook:

S. B. No. 14, A bill to be entitled "An Act amending Section 1 of Chapter 4 of the Acts of the Second Called Session of the Forty-third Legislature, 1934, so as to make said